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ABSTRACT

This report examines how and why Australia's Human Rights and Equal Opportunity Commission Act (1986) and the Racial Discrimination Act (1975) produced changes in the provision of education services by Queensland and New South Wales for residents of Toomelah. Toomelah is an economically and educationally disadvantaged Aboriginal community in upper New South Wales. The first section describes the events leading to the 1987 "Toomelah Inquiry," conducted by the Human Rights and Equal Opportunity Commission, which found significant educational and economic deprivation in the area. The second section examines the effect of the inquiry on the provision of education to Toomelah. A public outcry led to the provision of educational services and to efforts to abolish racism. The third section examines the significance of those effects for the educational administrator, who needs an awareness of the greater power of human rights laws. The administrator must recognize a system of complaints and compensations, policy development that reflects public opinion and legislation, and training and awareness commensurate with responsibility to legal and human rights issues. Appendices contain a map, background of legal statutes, and extracts from the Toomelah Report. (Contains 17 references.) (LMI)

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HUMAN RIGHTS LEGISLATION AND THE EDUCATIONAL ADMINISTRATOR:

AN AUSTRALIAN CASE STUDY

Australian Council for Educational Administration
National Conference
Darwin, 1992.

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Seminar Paper

Tuesday 7 July
2.30 pm to 3.45 pm

Michael ELLER

EA 024 495

Synopsis

In June 1988, newspapers across Australia called it "Australia's Shame". The public outcry it created was profound. Here, within the "Lucky Country" was a whole community living in third world conditions.

This seminar is a case study examining how and why the **Human Rights and Equal Opportunity Commission Act (1986)** and the **Racial Discrimination Act (1975)** produced changes in the provision of education services by Queensland and New South Wales for the people living at Toomelah in NSW.

The seminar will consider four questions:

1. What led to the **Toomelah Inquiry ?**
2. How did the provision of education services change because of the **Toomelah Report?**
3. What were the effects of the changes?
4. What is the significance of these events for the educational administrator?

Introduction: What led to the Inquiry?

> At the beginning of 1987, long standing tensions between the communities of Goondiwindi, Boggabilla and Toomelah on the New South Wales - Queensland border achieved national prominence when they culminated in violence in Goondiwindi on the afternoon of 10 January. Nine people were injured and there was damage to hotels and shops.
>
> (Human Rights and Equal Opportunity Commission 1988:1)

Following the visit to Toomelah (Appendix 1: Location Map and Details) of Commissioner Irene Moss in January 1987, the Human Rights and Equal Opportunity Commission (HREOC) initiated a public inquiry to determine the underlying reasons for these tensions. (HREOC 1991:7-8). The legal basis of the inquiry is elaborated in Appendix 2.

The second of five terms of reference for the Inquiry bears most directly on education. Specifically it reads:

> In particular to inquire into and report upon the extent to which any problems or deficiencies identified have been caused by inadequate educational and/or employment opportunities and/or facilities and the existence of the Queensland - New South Wales border between the town of Goondiwindi and the other two towns.
>
> (HREOC 1988:2)

The **Toomelah Report** found significant educational disadvantage was suffered by people at Toomelah. These are detailed in Appendix 3: Educational Extracts from the Toomelah Report.

The Inquiry reported that:

* adults have a low educational standard (citing the 1981 Census which estimated that 28.9% of the population of NSW aged fifteen years and over possessed post secondary qualifications. The comparative proportions were 16.3% in Boggabilla and 3.1% in Toomelah [NSW Department of Technical and Further Education 1987:6]).
* a preschool operates in a dangerous, disused machine shed
* a new primary school operates in a way that has brought considerable credit to those concerned with it
* secondary students travelled to Goondiwindi State High School until 1988 and suffered interruptions to their educational progress and racial discrimination.

In evidence to the Inquiry in 1987, the headmaster of Goondiwindi State High School led the Inquiry to believe that little had been done to cater for the special needs of Aboriginal students. The need to more explicitly recognise these special needs had been officially noted in 1984 in the document **The Education of Aborigines and Torres Strait Islanders** (Queensland Education Department, 1984). It discusses the need for Aboriginal participation in decision-making, increased sensitisation of personnel, a documented Aboriginal Education policy with recommended practices and a concise statement of aims and objectives on Aboriginal Education.

In its submission to the inquiry, the NSW Department of Education attributed some of the blame for the lack of success among Aboriginal students to the inadequacy of educational support services:

> At Goondiwindi State High School there is no school counsellor, careers teacher, Aboriginal Education Aide or permanent Home-School Liaison Officer. The department asserts that these would be provided in a comparable NSW school. Moreover, 'no recognition is given in the Queensland education system to Aboriginality and there is no Aboriginal Education Policy. There are no Aboriginal perspectives across the curriculum and Aboriginal Studies is not available. Aboriginal parents as a consequence, feel that the curriculum at Goondiwindi State High School has very little relevance for their children.'
>
> (HREOC 1988:46, citing NSW Department of Education submission)

The social and material disadvantage suffered by the people living at Toomelah cannot be separated from educational disadvantage. The quality of housing, health and provision of basic services determines the level of participation of the student in educational experiences. That students should have a decent standard of living so that they are healthy enough to engage in those experiences is obvious. (Extracts of the Inquiry's findings into the social and material disadvantage suffered by the people are included in Appendix 4: Extracts from the Toomelah Report). The report notes:

> The Toomelah children are further disadvantaged by the living conditions at home: the lack of water for personal hygiene and for cleaning clothes (with resultant criticism from both staff and fellow students); overcrowding resulting in ill-health, lack of privacy and interference with study; and occasional isolation due to flooded roads. On average, each Aboriginal student misses about twenty days of school each term.
>
> (HREOC 1988:45)

The most significant educational issue to emerge from the Inquiry was a lack of adequate provision for the educational needs of preschool, secondary-aged and adult students.

The effect of the Inquiry on the provision of education

After the Inquiry had commenced but prior to the **Toomelah Report** being published, significant changes were enacted in the provision of education for the people of Toomelah and Boggabilla.

The report notes that the NSW Regional Director of Education met with the Queensland Regional Director, as did the staffs of Boggabilla Public School and Goondiwindi State High School. In addition, an Aboriginal Liaison Officer appointed to work at Toomelah Public School was working with Goondiwindi State High School during 1987, joint staff development activities between the schools was planned and the Queensland Department of Education was in the process of writing a policy for Aboriginal and Islander education.

The NSW Government announced in late 1987 that a new central school would be opened at Boggabilla to cater for students up to year 12. This caused significant concern among some Aboriginal parents who testified to the Inquiry that they feared that the range of courses was likely to be less varied than those provided at Goondiwindi. (HREOC 1988: 7.22: 47).

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The need for a secondary school had been recognised for several years. In the past, neighbouring states government had sought to prevent duplication of services in border areas and those services had been shared. The provision of an educational service for Toomelah, Boggabilla and Goondiwindi was an example of this sharing.

The establishment of a secondary school depended on the resolution of three issues:

1. where the school would be sited - Boggabilla, Toomelah or elsewhere.

2. continuing problems about the tenure of land and the provision of services to it, which delayed decisions. (The **Toomelah Report** noted that between 18 and 25 different government departments, boards and authorities had control at Toomelah which caused overwhelming inertia in the provision of social and material facilities. Such problems had arisen during the establishement of Toomelah Public School a few years before.)

3. debate about the number of students who would use a secondary school. (In its submission to a Working Party in 1986, the NSW Teachers' Federation provided secondary enrolment figures for NSW central schools to year 10 which showed that in July 1986, 33 Central Schools were operating in NSW with fewer enrolments than "what could be potentially enroled from Toomelah". (Education 1987:14). These figures did not include Boggabilla. Numbers had been steadiy rising since the commencement of agitation for a secondary school.

The Federation argued that it was unlikely that a Toomelah Aboriginal child would gain a secondary education and that the NSW Government was not fulfilling its responsibilities to provide a secondary education to the Toomelah children. The **Toomelah Report** (HREOC 7.22:47) notes that the department felt that following the riot, Goondiwindi State High School was no longer suitable for the Aboriginal students living on the NSW side of the border. The Inquiry concurred, previoulsy noting that absenteeism had risen dramatically following the riot from an already high figure, cited by the NSW Teachers' Federation as being an average of 23.5 days out of a possible 50 in Term 2, 1986.

During 1987, Moree TAFE College provided courses in reading, writing, Aboriginal culture, living skills and mathematics to adults in the Toomelah Public School building. The NSW Adult Education Board, in consultation with the Aboriginal Training and Cultural Institute was also engaged in developing informal programs to meet the needs of the community.

These developments occurred prior to the release of the **Toomelah Report** by the Human Rights and Equal Opportunity Commission.

When the report was released in June 1988, several recommendations were made. Several of these referred to the Queensland Government and Goondiwindi High School. They related to the abolition of racial discrimination, building of cross-cultural exchanges, building of Aboriginal perspectives into the curriculum, inservice teacher training and the appointment of an Aboriginal Liaison Officer. The Principal of Goondiwindi High School declined to have the commission meet with him and his staff because "only two Aboriginal students, who were both doing well" then attended Goondiwindi State High School. The report labels this action a failure to properly address complaints of overt racism at the school (HREOC 1989: 11-12).

The Commission's **Toomelah Review** (1989) noted that 62 students (95% Aboriginal) were enroled in years 7 - 10 at Boggabilla Central School. A wide range of subjects was taught including Aboriginal Studies and the then innovatory Joint Schools - TAFE courses in years 11 and 12. Permanent accommodation in the form of a joint school-TAFE facility was planned following the allocation of $1 million from the Commonwealth Grants Program towards the estimated construction costs of $5.25 million. The permanent school was completed in 1991.

The review called on the relevant State and Federal Ministers to address the urgent need for pre-school facilities:

> Operation of the preschool continues in a disused machine shed, without proper lighting, water and sewerage. ... The present premises induce a host of problems, including health and disciplinary difficulties. They would not be permitted to be used for non-Aboriginal children in any other part of the state.
>
> (HREOC 1989:11)

A wide variety of courses was offered by TAFE at Boggabilla and Toomelah. The Review noted:

> In 1988 there were 526 TAFE students enrolled at Boggabilla and 50 at Toomelah. Having regard to the population numbers, this demonstrates a phenominal level of desire for training and education among Aboriginal adults.
>
> (HREOC 1989:12)

When read in its entirety, the **Toomelah Report** does appear to have made a significant difference to the provision of services to meet the needs of the Toomelah residents. Substantial improvements did occur to living conditions. The Review comments:

> the pace and scope of the recent improvements at Toomelah could not and would not have occurred if (the) issue (of inter-government conflicts) had not been addressed.
>
> (HREOC 1989:2)

Possibly of even more importance was the public outcry which accompanied the Inquiry. The stark difference between what policies and Acts proclaim and the reality of the situation in 1987 pricked the nation's conscience. A latter report reflects on the Inquiry and concludes:

> This highly publicised Inquiry prompted the authorities to act in a positive manner and resulted in significant improvements in economic and social conditions for the Aboriginal people of Toomelah.
>
> (HREOC 1991:5)

Indeed, the Inquiry, Report and Review, with their associated publicity speeded up the NSW Department of Education's provision for the people's educational needs.

The significance of these events for the Educational Administrator

The major significance of the events associated with this case study is the need for the educational administrator to be aware of the increased degree of control that such racial and human rights laws have over what occurs in education and what teachers and adminisrators are required to do. The importance of these events require the administrator to be aware of three main implications:

1. the increased likelihood of scenarios involving complaints to the Anti-Discrimination Board and the Human Rights and Equal Opportunity Commission by possible victims and others protecting victim's rights

2. the need for policy development to keep pace with legislation and the public opinion which ultimately influences the enactment of legislation, and

3. the need for administrators to maintain levels of training and awareness commensurate with the responsibilities they have in a devolved school environment.

Complaints and Compensation:

There are now a host of avenues of redress outside the education system for people who feel that their rights have been infringed. These include the states and federal Ombudsmen, the Human Rights and Equal Opportunity Commission and various state bodies such as the NSW Independent Commission Against Corruption and the NSW Anti-Discrimination Board. These present a new range of ways in which issues related to educational malpractice might be persued and although Riley and Sungaila point out (1991:15) that these efforts have failed, this author is less definitive in offering such an opinion about the present case.

In the **Toomelah Inquiry** the actions which the Human Rights and Equal Opportunity Commission could take were limited because the Inquiry was not made in response to a complaint. Under the provisions of the Act, the Commission can respond to a complaint, require a person to produce documents and provide information (s21), give evidence on oath (s22), fine persons for failing to do so (s23), or for providing false information (s25), or hindering the inquiry (s26) (the latter with fines of up to $10,000 or imprisonment) and order payment of compensation (s29). Similar provisions apply under the Racial Discrimination Act (s25, s27).

In the opinion of a senior officer of the HREOC (personal communication), had members of the Toomelah community or someone acting on their behalf, brought a complaint to the Commission, about which the Commission had reached the same conclusions, the person found responsible could have been prosecuted. An interesting legal situation then exists. Under the HREOC Act [s6(1), (2)], a State Government could not be vicariously liable for the action of their employee because the state, but not the person is exempt from the legislation. This is not the case with the Racial Discrimination Act (1975). The State is not exempted under this Act and through amendments made in December 1990, is now vicariously liable for the action of its employees.

This liability includes indirect discrimination. An overseas example illustrates this point. Sungalia (1991b) refers to the case of R v Inner London Education Authority ex parte Ali and Murshiel. They suggest that a claim of indirect discrimination against Bangladeshi children contrary to the Race Relations Act (1976) would be successful if it could be proven that in an area where there is a high proportion of Bangladeshi families, the lack of school places was having a disproportionate effect on such children as compared with local children in general and that authorities had omitted to provide a school.

Policy Development

The situation implores the educational administrator to develop policies which reflect wide public opinion and the legislation it ultimately has enacted and to influence that public opinion in appropriate ways by maintaining an involved and influential public profile. It now appears insufficient for an administrator to develop policy only within system guidelines. Witness the comments of the Commission about the action of the Principal of Goondiwindi High School who was operating without the guidance of a Queensland Education Department Aboriginal Education Policy.

The administrator needs to be alert to action taking place in the international community and the catalystc actions of the Commonwealth and state courts, boards and commissions in the area of human rights. For example, Sungaila foreshadows the sort of change that might occur if the Convention on the Rights of the Child becomes a Covenant (1991a:17).

The administrator needs to be aware not only that the policy development process affecting schools has now gone beyond the field of education but also what those policy developers are saying. The latest HREOC Report into Racist Violence for example, states:

> It follows that efforts to create a co-operative and non-racist school community must actively involve staff, students and parents and must address the suspicions and grevances which give rise to racism and which may be provoked by any action to counteract it. Counselling and mediation should be available in all cases of racist violence or harassment. A formal mechanism to deal with complaints and grievances should be established.

Other examples of devolved policy development and implementation such as the NSW Fair Discipline Code (Corporal Punishment and School Uniforms), separate Aboriginal schools or classes, and the legal status of Aboriginal community/school council decisions are relevant here.

Training and Awareness Commensurate With Responsibility:

The administrator in a devolved school administrative climate has increased responsibilities which require high levels of perception and awareness of issues (even national and international ones), which have local significance.

The ability of an educational administrator as a community leader, to be able to co-ordinate delivery of educational services with other service providers has been shown to be significant. The debate about the location of secondary education facilities in Toomelah, for example, was delayed and clouded by the decisions of other providers such as the location of housing developments by the Aboriginal Development Commission.

The need for equity of funding was criticised in the **Toomelah Report** (6.16:34). The Moree Plains Shire Council was criticised for not providing the same level of services to an Aboriginal community which it provides to a non-Aboriginal community. It was seen to be preventing funds, made available under Commonwealth and State programs and specific purpose grants, from reaching those in need. The significance of this for the school administrator who is administering funds made available under similar grants becomes abundantly clear. Not only have devolved responsibilities increased, but so have the levels of accountability and the penalties for failing to properly account.

Sungaila, in discussing the relevance of the Racial Discrimination Act (1975), points to its significance in influencing a great variety of decisions which the school administrator must make:

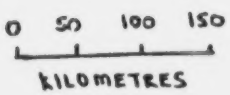
> Every decision about the recruitment and training of teachers, about their appointment, promotion and transfer, about the admission of students to courses, their access to educational facilities, the supervision which they receive and the way their classes are organised, the curriculum which is followed, even about styles of teaching, must be made in the light of this Act, if legal sanctions are to be avoided.
>
> (1991c:8)

Appendix 1: Location Map and Details

GOONDIWINDI: established in 1838, is a relatively prosperous regional centre on the banks of the Macintyre River in Queensland. It is a service centre for the surrounding cotton, sheep and cattle farms as well as for a number of townships and settlements including Toomelah and Boggabilla on the NSW side of the river. Its 4,000 residents have been well supplied with services. Education, health, recreation and municipal services were all adequately catered for in 1987. Unemployment in the town was below the national average in 1987.

BOGGABILLA: is both smaller and poorer than Goondiwindi. It is nine kilometres south east of Goondiwindi on the NSW side of the Macintyre River which forms the state's border at that point. It is 115 kilometres north east of Moree. In 1987, only 8% of its 500 residents were Aborigines. The town had some sealed roads, street lighting, town water, a sewerage service and a stormwater drainage system. There was a primary school and medical services. Shopping and recreational facilities were availalble. Unemployment was slightly above the national average in 1987.

TOOMELAH: 18 kilometres south east of Boggabilla had a population of 500 residents in 1987, all of whom were Aborigines. More than two-thirds of the Toomelah population was aged under 20 years. The community had a primary school and health clinic. Housing was unsatisfactory in both quantity and quality. An artesian water supply was rationed and dispensed twice daily. The sewerage system was completley inadequatre. Roads were unsealed dirt tracks. Access to and within the settlement was impossible after heavy rain. There was no drainage, street lighting, garbage collection or store.



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Appendix 2: The Legal Basis

In its most recent report on **Racist Violence** the Human Rights and Equal Opportunity Commission explains its own legal basis:

> The Australian Parliament established the Human Rights and Equal Opportunity Commission on Human Rights Day, 10th. December, 1986. The Commission replaced the former Human Rights Commission as the centrepiece of Australia's strategy to acknowledge and implement its international human rights obligations. ... The Commission is responsible for administering the ... Human Rights and Equal Opportunity Commission Act (1986) (and the) Racial Discrimination Act (1975). ... These Acts give force to the international human rights instruments to which Australia has committed itself. They include: (the) International Covenant on Civil and Political Rights, Declaration of Rights of the Child, (and) International Convention on the Elimination of All Forms of Racial Discrimination.
>
> (HREOC 1991: 3-4)

The power of the Australian Parliament to implement treaty obligations by legislating with respect to its external affairs power has been substantiated in Commonwealth v Tasmania (Dams Case) (1983) and Richardson v Forestry Commission (Tasmanian Forests Case) (1988).

The Human Rights and Equal Opportunity Commission Act (1986) specifically implements the International Convenant on Civil and Political Rights (1958) (in the Toomelah Case specifically Part II article 2) and the Declaration of the Rights of the Child (1924) [specifically principles 7 and 10 under s3, 3(1), (4) and (8):3.6.7.] The Act establishes the Human Rights and Equal Opportunity Commission and gives it power to:

> inquire into an act or practice that may be inconsistent with or contrary to any human right ... on its own initiative or when requested by the Minister, to report to the Minister as to the action (if any) that, in the opinion of the Commission, needs to be taken in Australia in order to comply with the provisions of the Covenant, of the Declarations or of any relevant international instrument.
>
> [Parliament of Australia 1986 s11 (1) (f) and (k)]

The Inquiry into the Social and Material Needs of the New South Wales - Queensland Border Towns of Goondiwindi, Boggabilla and Toomelah **(The Toomelah Inquiry)** was conducted persuant to these sections of the Act (HREOC 1988) and s20 (1) (a) of the Racial Discrimination Act (1975) which reads:

> The following functions are hereby conferred on the Commission:
> (a) to inquire into alleged infringment of Part II, and endeavour by conciliation to effect settlements of the matters alleged to constitute those infringements.
>
> [Parliament of Australia (1975) s20 (1) (a)]

Included in Part II is reference to racial discrimination: access to places and facilities, land, housing, other accommodation and provision of goods and services. The Racial Discrinimation Act (1975) implements the International Convention on the Elimination of All Forms of Racial Discrimination (1963) [s3, 3(1)]; specifically Article 2, 1(a); Article 5 (e) (v); and Article 7.

The power of the Commonwealth in the implementation of its external affairs power remains subject to the express limitations contained in the Constitution (such as the guarantee of freedom of religion which applies to the Commonwealth under s116) and the implied limitations, notably that the Commonwealth may not interfere with the continued existence and functioning of a state.

A HREOC Report: **Our Homeless Children** notes that:

> the power of the Commonwealth to legislate on an international instrument which does not create binding legal obligations (such as the Declaration of the Rights of the Child), is less certain (than genuine treaty obligations). The question in such a case would be whether the Declaration would be regarded by the courts as evidence of sufficient international concern.
>
> (HREOC 1989:39)

(On 22 August 1990, the Australian Government signed the Convention on the Rights of the Child, ratified it in December 1990 and brought it into effect on 16th. January 1991, but has not legislated for it).

The question can be rightfully asked about the power of the Commission over a state and this was put to a senior officer of the Commission.

The Toomelah Inquiry was brought under s11(1) (f) and (k) of the Human Rights and Equal Opportunity Act and s20 (1) (a) of the Racial Discrimination Act. Section 6(1) of both Acts is conflicting:

> 6(1): This Act (HREOC Act 1986) binds the Crown in right of the Commonwealth and of Norfolk Island, but, except as otherwise expressly provided by this Act Equal Employment Opportunity, does not bind the Crown in right of a State (7)
>
> 6(1) This Act (Racial Discrimination Act 1975) binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island ... (3)

So, whereas the former Act which seeks to protect peoples' rights without racial or other kinds of distinction, doesn't bind a state, the latter Act does. In the case of Toomelah, the difference is almost indistinguishable. To be specific, article 2 (1a):

> each state party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and institutions, national and local, shall act in conformity with the obligation;

article 5 (e) (v):

> ... the right to education and training;

and article 7:

> States parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combatting prejudices which lead to racial discrimination ...

of the International Convention on the Elimination of All Forms of Racial Discrimination applies.

The HREOC Act makes specific mention that the giving of evidence, information or documents may not be published should they prejudice relations between Commonwealth and State or one state and another [s14 (5) (b)]. Bailey (1990:144) would appear to disagree with this interpretation. He claims that:

> (the HREOC Act will provide for) enactments that may progressively establish human rights standards which the States as well as the Commonwealth will be under obligation to observe.

In the case of Koowarta v Bjelke-Petersen (1982) the Queensland Government challenged the validity of the Racial Discrimination Act (1975) in the High Court but was unsuccessful, the High Court upholding the validity of the legislation.

Appendix 3: Educational Extracts from the Toomelah Report

The Toomelah community operates a preschool with funding from the Department of Youth and Community Services. A full time director, a full time assistant and a part time helper are employed, all of whom are Toomelah residents. There are approximatley 60 preschool children. There is however, no preschool building and the preschool operates in a disused machine shed which is dangerous because of unguarded machines and power points. A development application for a preschool building was rejected by the Moree Plains Shire Council because a water supply could not be secured. (7.3:43).

Two-thirds of children at the Boggabilla (Primary) School are Aborigines (forty five children), while all 105 children at the very impressive Toomelah school are Aborigines. The Education Department reported that during 1987, the children at both schools suffered emotional stress caused by the racial unrest at Goondiwindi. There is a full time Aboriginal Education Assistant at each school. The building of a new school at Toomelah in 1986 has been of considerable significance, especially for parents, students and staff at Toomelah but also as a public demonstration that Aboriginal Education is given high priority. No vandalism has occurred at the school since the new facilities were provided. The inquiry found the Toomelah Primary School to be a credit to the Headmaster, teachers and department, as well as to the children and their parents.

Until 1988, secondary students have had to travel across the border to Goondiwindi in Queensland to attend school. During the past seven years, only twenty Aboriginal students from Boggabilla, Toomelah and the surrounding region have progressed to year 11 and only two have progressed to year 12. Of the twelve Aboriginal students who entered year 7 in 1983, only one reached year 10 in 1986. (NSW Department of Technical and Further Education 1987:4).

Because of differences between the NSW and Queensland education systems, the students coming across the border have had to complete a one year bridging course, paid for by the Queensland Government, at Goondiwindi State High School. This system has operated since 1982 and is designed to bring NSW children to the same level as Queensland students, who begin their secondary education in year 8 rather than year 7 as in NSW. This is a difficult transition for many children but is particularly so for the Aboriginal students.

Some parents feel that their children lose interest in school during the transitional year and there is certainly considerable attrition during this period. This opinion was supported by a review of the arrangements for all NSW students at the Goondiwindi State High School undertaken in mid-1986 by two school inspectors from the NSW Department of Education. They advised that 'the secondary age Tomelah children are not experiencing success under the present system' (NSW Department of Education submission 1987:6).

There are also continuing reports of discrimination at Goondiwindi State High School. "They had a blackboard for the whites and a blackboard for the black kids. Our kids are always humiliated in front of the class, stood out in front of the class and humiliated, and that is from people who have been there and saw it happen. Even their uniforms, they were always picked on, made stand in front of the class because of their uniform, and the white kids wore what they wanted to wear. They were always humiliated ..." Former teachers at Goondiwindi State High School confirmed this report, but the current headmaster of the school assured the Inquiry that at least separate blackboards are not now in use. The use of these blackboards was probably due more to perceptions of differences in learning standards and speeds of students than to overt racism. The resultant division of the class on black-white lines however, was insensitive and impermissible. (7.11.45 citing NSW Department of Education submission).

We also received evidence of racism practiced against Aborigines by their fellow students. The Inquiry recognises that childrens' ignorance and cruelty are especially difficult to deal with ... Teachers and parents, therefore, have a special responsibility to build a sense of responsibility and self respect for children in their charge. (7.12:45).

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Appendix 4: Extracts from "The Toomelah Report"

The **WATER** supply was totally inadequate for household purposes and the sewerage system failed to operate on normal demand (1.21:4). The Toomelah Public School has airconditioning and wet rooms for art work but the lack of water means they cannot be used (4.4:19). Water was being rationed. It was available for twice a day for fifteen minutes at a time, as it had been for years. This daily rationing, requiring people to collect water in bottles and buckets made life intolerable (4.1:19). Every day between thirty and forty people visit the clinic which is run from an old demountable classroom. The clinic must function without water and there is no hot water. ... The community residents most frequently complain of ailments related directly to the lack of water and poor sewerage disposal; infected sores, gastroenteritis, growth failure, respiratory, ear, skin infections and stress (4.3:19). The community currently relies on a septic system for sewerage disposal. There is insufficient water to flush the sewerage efficiently. The Inquiry observed raw sewerage from the system's overflow covering a large area of land within one hundred metres of Toomelah. We saw other raw sewerage on top of the ground outside some houses where children play and observed a septic system totally blocked up and without a sealed lid or top adjacent to a child's play area.

The **HOUSES** were in a poor state of maintenance and desperately overcrowded, with the average occupancy of the forty dwellings being twelve persons and some dwellings being occupied by more than twenty persons. One three bedroom dwelling houses thirty people (1.21:4). The Aboriginal Development Commission assessed the condition of 39 Toomelah houses in 1987 as follows: fourteen (just over one-third) were in good condition; two were in fair condition; and twenty-three (just under two-thirds) were in poor condition. In the Inquiry's view, this is a conservative assessment of the state of these dwellings. Many have no windows, no guttering and are not rainproof. The bathing facilities are hopelessly inadequate. There is inadequate flooring and roofing and virtually no privacy. No Australian citizen should be living in such conditions in 1988, especially when conditions are determined by organs of government.

Both the access route and internal **ROADS** were unsealed and impassible after heavy rain (1.21:4). To reach Boggabilla, (residents of Toomelah) must travel along a half-kilometre dirt track to the old unsealed Bruxner Highway which they must use for a further six and a half kilometres before reaching the new highway. There is no bridge or causeway at either of the two creek crossings which must be traversed, with the result that both roads are subject to flooding, leaving Toomelah cut off during and after heavy rains. Roads within Toomelah are pot-holled black-soiled tracks. There is no paving, kerbing, guttering, drainage or street lighting and no provision for pedestrian safety. The Department of Main Roads representative admitted that he was unaware of any other community of five hundred people within NSW where no roadworks (other than a little grading) had ever been undertaken.

The **HEALTH** clinic was in a very run-down condition. In 1986, a Health Department survey of children under six found over 20% suffering from recurrent chest infections and about 50% had chronic ear disease. The community health worker has a diploma in Aboriginal health and services the entire community on her own most of the time. At times over the past few years a registered nurse has worked full time at Toomelah. A Health Department doctor visits about ten times each year but only to innoculate children. Because the Health Worker may not prescribe drugs the people must travel to Goondiwindi for most medical treatment - a trip rendered impossible by the lack of transport or the closure of access roads during rain. For dental treatment, they must travel to Moree because, as NSW citizens, they are not entitled to the free dental care provided by Queensland to its citizens.

Toomelah Report, June 1988.

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